IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.650 OF 2005
IN
EXECUTION APPLICATION (LDG.) NO.173 OF 2005
IN
SUMMARY SUIT NO.1305 OF 1989

M/s.Prem Enterprises ....Plaintiff
V/s.
M/s.Khanna Rayon Industries Pvt.Ltd. ....Defendant

Mr.J.Mehta i/b Mr.K.R. Dhanuka for the Plaintiff.
Mr.K.P. Jain with Ms.J.M. Sidhwa and Ms.S.R. Mogre i/b Mehta & Girdharlal for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 10TH JANUARY, 2006.

P.C. :

1. The Plaintiff - judgment-creditor seeks an appointment of a Court Receiver with all powers including power to sell the properties of the Defendant - judgment-debtor and satisfy the decretal amount from the sale proceeds thereof. Admittedly, the proceedings before the B.I.F.R. are pending in respect of the Defendant. The A.A.I.F.R. has by an order dated 13th July, 1998, while remanding the matter to the B.I.F.R. provided as follows :-

> "(b) In order to protect and preserve the properties of KRIL, it is open to BOI and M/s.Prem Enterprises to approach the appropriate court and initiate necessary proceedings, including

appointment of a receiver, pending final decision of BIFR."

2. Mr.Jain, the learned counsel appearing on behalf of the Defendant fairly stated that as far as protecting the rights of the Plaintiff including by the appointment of the Court Receiver are concerned, the Chamber Summons is maintainable. He however, submitted that the facts do not warrant appointment of the Court Receiver. At this stage, the ends of justice would be met by the order I propose passing. In the circumstances, the following order is passed :-

i). The Defendant is restrain by an order of injunction from dealing with, disposing of, alienating, encumbering or creating any third party right, title and/or interest in, to, upon or in respect of the properties described in the schedule to the Chamber Summons without giving the Plaintiff’s advocate notice in writing of not less than four weeks and without obtaining the leave of this Court. It is clarified that this injunction would operate irrespective of whether the reference before the B.I.F.R. is pending or not pending for any reason whatsoever.

ii). The Chairman of the Defendant one Sharad R. Khanna is ordered and directed to state on affidavit to be filed in this Court details all statutory authorities before whom and statutory records in which the said properties have been referred to or mentioned. The Defendant is ordered and directed to forward a copy of this order to all the said statutory authorities. The Plaintiff shall also be at liberty to forward a copy of this order to the said authorities, if they so desire.

iii). Liberty to the Plaintiff to apply for appointment of the Court Receiver in the event of it being found that this order has been breached in any manner. In that event, the Plaintiff shall also be at liberty to rely upon the facts stated in the present proceedings in addition to any new facts.

3. The Chamber Summons is accordingly disposed of.

. Certified copy expedited.